

STATE OF GEORGIA

COBB COUNTY

**DECLARATION OF STORMWATER MANAGEMENT, INSPECTION AND
MAINTENANCE**

WHEREAS, the property owner, _____ recognizes that the storm drain structures, pipes, water quality units and all aspects of a stormwater management facility must be maintained for the development called _____, of the City of Marietta, Cobb County, Georgia, being more particularly described by the legal description in Exhibit "A" attached hereto and made a part hereof; and,

WHEREAS, the property owner, _____, is the owner of the real property more particularly described on the attached Exhibit "B" – Site Plan (hereinafter referred to as "the property"), and,

WHEREAS, _____, whose title is _____, is the person responsible for carrying out all requirements of this Declaration and of the City of Marietta Code for the inspection and maintenance of the stormwater management facility on the property identified in Exhibit "A".

WHEREAS, the property owner, its administrators, executors, successors, heirs and assigns, agree that the health, safety and welfare of the citizens of the city require that a stormwater management facility be constructed and maintained on the property, and,

WHEREAS, the City of Marietta Code requires that the storm drain structures, pipes, water quality units and all aspects of the stormwater management facility, as shown on the approved development plans and specifications, be constructed and maintained by the property owner, its administrators, executors, successors, heirs and assigns.

NOW, THEREFORE, in consideration of the foregoing premises, the undersigned declares as follows:

SECTION 1.

The stormwater management facility shall be constructed by the property owner in accordance with the plans and specifications for the development as submitted to and approved by the City of Marietta (hereinafter "City").

SECTION 2.

The property owner, its administrators, executors, successors, heirs and assigns shall maintain all aspects of the stormwater management facility in good working condition. A schedule of long term maintenance activities, including how often routine inspection and maintenance will occur, shall be in accordance with the attached Exhibit "C". Such Schedule shall also include plans

for annual inspections to ensure proper performance of the facility between scheduled maintenance and remedies for the default thereof.

SECTION 3.

The property owner, its administrators, executors, successors, heirs and assigns shall provide records of all inspections, maintenance and repairs of the stormwater management facility to the Public Works Department, if requested. Such records include items inspected and details of maintenance and repairs performed.

SECTION 4.

The property owner, its administrators, executors, successors, heirs and assigns hereby grants permission to the City, its authorized agents and employees, to enter upon the property for regular inspections, periodic investigations, observation, measurement, enforcement, and sampling and testing of the stormwater maintenance facility whenever the City deems necessary. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in stormwater management facilities; and evaluating the condition of the stormwater management facilities and practices. The City, its authorized agents and employees, shall duly notify the owner of the property or the representative on site, except in the case of an emergency.

SECTION 5.

In the event the property owner, its administrators, executors, successors, heirs and assigns fail to maintain the stormwater management facility according to the approved plans and the Maintenance and Inspection Schedule, the City shall notify by certified mail the person specified herein as the person responsible for carrying out the maintenance plan. Such notice shall specify the measures necessary to comply with the site plans and the maintenance schedule and shall specify the time within which such measures shall be completed. If the responsible person fails or refuses to meet the requirements of this Declaration, the City, thirty (30) days after the written notice is sent (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient), may enter the property to correct a violation of the design standards or maintenance requirements by performing necessary work to place the facility or practice in proper working condition. The City may assess the property owner for the cost of repair work. It is expressly understood that the City is under no obligation to maintain or repair the stormwater management facility and in no event shall this Declaration be construed to impose any such obligation on the City.

SECTION 6.

It is the intent of this Declaration to ensure the proper maintenance of the stormwater management facility by the property owner; provided, however, that this Declaration shall not be deemed to create or effect any additional liability on the property owner for damage alleged to result from or caused by storm water runoff.

SECTION 7.

The property owner, its administrators, executors, successors, heirs and assigns hereby indemnifies and holds harmless the City and its authorized agents and employees for any and all damages, accidents, casualties, occurrences or claims which may arise or be asserted against the City from the construction, presence, existence or maintenance of the stormwater management facility by the property owner or the City. In the event a claim is asserted against the City, its authorized agents or employees, the City shall promptly notify the property owner and the property owner shall defend at its own expense any suit based on such claim.

SECTION 8.

This Declaration may be enforced by proceedings at law or in equity by or against the undersigned and their respective successors in interest.

SECTION 9.

Invalidation of any one of the provisions of this Declaration shall in no way effect any other provision and all other provisions shall remain in full force and effect.

SECTION 10.

This declaration complies with the provisions of the City of Marietta Code of Ordinances, Article 7-8-14, Stormwater Quality Control, and the property owner, its administrators, executors, successors, heirs and assigns acknowledge that it must obtain all required permits, submit all required plans and follow all provisions of Article 7-8-14. Since under Article 7-8-14 the responsibility for the operation and maintenance of the stormwater facility passes to any successor owner, this Declaration shall be binding on all subsequent owners of the property.

SECTION 11.

Additional provisions that relate directly to the individual needs and requirements of this specific site plan as identified in Exhibit "A" and Exhibit "B" are attached hereto and made a part hereof as Exhibit "D". Such additional provisions have been discussed with and presented to the City of Marietta Public Works Director.

IN WITNESS WHEREOF, the Declarant has executed this Declaration on the _____ day of _____, 2004.

Declarant:

Property Owner: _____

Signed and sealed
in the presence of:

_____(Seal)

By: _____

Title: _____

Unofficial Witness

_____(Seal)

By: _____

Title: _____

Notary Public

Corporate Seal:

EXHIBIT “A”

EXHIBIT “B”

EXHIBIT “C”

MAINTENANCE AND INSPECTION SCHEDULE

Maintenance and inspection of the stormwater management facility shall be conducted ____ times per year within one week of the following dates: _____.

The annual inspection of the facility shall occur within two weeks of the following date: _____.

Maintenance requirements and necessary repairs discovered during any inspection shall be completed within thirty (30) days of their discovery. Any maintenance requirements or repairs that may constitute an immediate danger to public health and safety must be addressed within 24 hours of their discovery and must be fully repaired within ten (10) days.

A Maintenance Inspection Report, attached hereto and made a part hereof, must be completed for each scheduled or emergency inspection and must be maintained as a part of the property owner's records.

EXHIBIT “D”

OTHER PROVISIONS APPLICABLE TO THE LAND DESIGNATED IN EXHIBIT “A” AND EXHIBIT “B”

SECTION 14.

If portions of the land are sold or otherwise transferred, legally binding arrangements shall be made to pass the inspection and maintenance responsibility to the appropriate successors in title. These arrangements shall designate for each portion of the site, the person to be permanently responsible for its inspection and maintenance. Such arrangements are as follows:

(If, for example, the facility will become the responsibility of the homeowners association, then state as such, naming the president or other elected official as the responsible person.)

STATE OF GEORGIA

COBB COUNTY

CERTIFICATION FOR:

**DECLARATION OF STORMWATER MANAGEMENT, INSPECTION AND
MAINTENANCE**

WHEREAS, Declarant has constructed a stormwater management facility in accordance with site plans and stormwater management facility maintenance schedule filed with the City of Marietta for the development called _____, in the City of Marietta, Cobb County, Georgia, being more particularly described in the legal description in Exhibit "A" attached hereto and made a part hereof; and,

WHEREAS, the property owner, _____, has named _____ as the person responsible for carrying out all requirements of the Declaration of Stormwater Management, Inspection and Maintenance and of the City of Marietta Code for the inspection and maintenance of the stormwater management facility on the property described in Exhibit "A".

NOW, THEREFORE, in consideration of the foregoing premises, the undersigned declares as follows:

Declarant hereby declares a more definite Declaration of Stormwater Management, Inspection and Maintenance is on file at the City of Marietta Public Works Department which complies with Article 7-8-14 of the City of Marietta Code.

IN WITNESS WHEREOF, the Declarant has executed this Certification on the _____ day of _____, 2004.

Declarant:

Property Owner: _____

Signed and sealed
in the presence of:

_____(Seal)

By: _____

Title: _____

Unofficial Witness

_____(Seal)

By: _____

Title: _____

Notary Public

Corporate Seal: